

Responses to Letter 149 from Paul DeBruyn, Everson Resident

Note: The responses listed below are numbered to correspond to the numbers shown in the right-hand margin of the preceding comment letter.

1. Use of applicant-provided data is acceptable and common for SEPA assessments. Use of such data complies with SEPA and EFSEC environmental review procedures. (See WAC 197-11-100, information required of applicants). Data was independently reviewed by the EIS authors and impacts, significance, and mitigation measures were prepared independently by the EIS authors.

It is a common misperception that every detail about the environment must be included in the EIS. However, SEPA is intended to identify significant impacts, such as the unmitigated destruction of a threatened species' habitat. Wildlife studies were sufficient to identify significant issues and impacts on wildlife.

Encyclopedic evaluations of wildlife, including long species lists, are not helpful to making decisions. SEPA EIS evaluations are intended to focus on rare, threatened, or endangered species, per WAC 197-11-440(6), which defines what level of detail is appropriate for the affected environment of an EIS:

“Succinctly describe the principal features of the environment that would be affected, or created, by the alternatives including the proposal under consideration. Inventories of species should be avoided, although rare, threatened, or endangered species should be indicated.”

A complete list of birds (or small mammals for that matter) with data collected over several years may be interesting but is not particularly relevant to the significant issues related to decisions on the applicant's proposal.

2. The information cited is factually correct, so no change in the EIS is warranted. In addition, many sources were used to prepare the analysis. Please look at Chapter 4 in Volume 1 for a complete list of references. Bent's 1937 life history of birds of prey is still considered a good source of information regarding basic biology. The 1976 study by Gruybb is accepted as a standard reference for bald eagle nesting habits in western Washington.
3. P. Castle of the Washington Department of Fish and Wildlife was interviewed for information regarding wildlife in the area. In addition, the Priority Habitat and Species database is updated yearly with information from local WDFW biologists.
4. Information regarding wildlife impacts in Canada has been added to the EIS. In short, the transmission line would be installed in an urban area void of significant wildlife habitat. The Fraser River would not be adversely affected by the project.
5. This section is not intended to be a complete list of wildlife species, nor is such a list necessary to identify significant impacts on wildlife. Scientific names are also not

necessary to comply with SEPA, nor are they necessary to understand significant impacts.

6. Tables 3.5-1 and 3.5-2 lists special-status species potentially present in the project area. Without reference to specific species, no response can be made regarding the presence of additional species claimed by the comment. The tables were prepared by Jones & Stokes specifically for this project. Taxonomic order is not necessary to understand impacts or to make a reasoned choice among alternatives.
7. Olive-sided flycatcher has been moved to Table 3.5-1, Special Status Species Likely to be Present within the Proposed Project Area. Table 3.5-2 includes species that may be present, but for which no sensitive, primary and/or limiting habitat is present. Key habitat for other species is not present, although it is possible that other species may pass through the area during migration or while traveling between habitat areas.

Observation of a species in an area does not mean it is a determining factor in land use decisions. The WDFW priority species list makes a clear distinction between presence and significant use areas. For this EIS, a significant use of the site was considered to be a use that meets the WDFW definition of a “Priority Area.” The following is taken from the WDFW Priority Species List (WDFW 1999, available at <http://www.wa.gov/wdfw/wlm>).

PRIORITY AREA: Species are often considered a priority only within known limiting habitats (e.g., breeding areas) or within areas that support a relatively high number of individuals (e.g., regular large concentrations). These important areas are identified in the PHS List under the heading Priority Area. For example, great blue herons are often found feeding along shorelines, but they are considered a priority only in areas used for breeding (see criterion 2). If limiting habitats are not known, or if a species is so rare that any occurrence is important in land-use decisions, then the priority area is described as any occurrence.

8. As disclosed in the EIS, wildlife habitat would be reduced, including loss of habitat for raptors and other notable species. Raptor or other avian migration should not be interrupted by the project, other than through loss of foraging habitat. Red-tailed hawk nest sites receive no special protection outside of the breeding season and are not included in Whatcom County’s list of Species of Local Importance. However, due to their high public profile and appeal, such nests have been protected through SEPA. Potential mitigation has been added in the EIS for red-tailed hawks.
9. The natural gas pipeline would be buried and would not interfere with wildlife movements.
10. The EIS does not say that disturbed areas are not used by wildlife, but rather that wildlife species that use them are typically common.
11. Impacts for the 230 kV transmission line into Canada have been included in the Final EIS.

12. The 115 kV power lines that run through Whatcom County are no longer part of the project. Only the 230 kV line to Canada is included in the project. Therefore, the condition of these streams is no longer an issue with the project.
13. As stated elsewhere, wildlife habitat loss is an unavoidable adverse impact of the project.
14. While these species may be present in the area, impacts could be timed to avoid the breeding season. Disturbance outside of the breeding season, while adverse, is typically not significant. Bald eagles and other species in the area are accustomed to human activities, such as farming. In fact, construction activities would result in disturbance similar to farming activities that occur throughout the area.
15. The wastewater generated from the SE2 facility would not be discharged directly to the Fraser River, but would first be treated in the JAMES treatment facility. Due to the residence time of the effluent in the treatment facility, the temperature of the JAMES effluent would not be elevated from the current condition. SE2 wastewater would constitute less than 1 percent of the wastewater treated at the JAMES facility.
16. Thank you for your comment.
17. This section has been revised to note that ultimately the carrying capacity of the area for wildlife would be reduced.
18. Additional explanation has been added to the text of this section. The clearance requirements of the 230 kV transmission line would allow 25-foot trees and shrubs under the transmission lines. Shrubs of less than this height would be able to completely shade the channel.
19. Data sources are described in the EIS. Again, SEPA requires focus on major impacts that would significantly affect the environment. Wildlife habitat loss is an unavoidable and adverse impact of almost all development, and such impacts need to be considered as part of land use decision making. The EIS describes the wildlife habitat that would be lost due to the proposal.
20. Based on the air quality analysis conducted as part of the EIS, the evidence does not support a finding of likely significant adverse impacts on wildlife due to project generated air emissions.
21. Thank you for your comments.
22. Thank you for your comments.
23. RCW 80.50.071 states, "The council shall commission its own independent consultant study to measure the consequences of the proposed energy facility." WAC 463-58-020 requires applicants to submit a fee with their applications to be applied toward the cost of the independent consultant study.

EFSEC retained Jones & Stokes as the independent consultant to review SE2's

Application for Site Certification and prepare the EIS. That Application was prepared by the applicant's consultant, Dames & Moore. Jones & Stokes is not under contract to the applicant.

WAC 463-50-030 states:

Each consultant selected to perform independent consulting services shall have demonstrated its qualifications on the basis of experience and competence in specific, or closely associated, areas for which consulting services are desired. A consultant shall not be hired or retained by the council if upon examination by the council, a significant conflict of interest is found with regard to the applicant or other parties involved or potentially involved in the adjudicative proceeding.

24. Please see Letter 149, Response to Comment 23 (above).